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(1)

SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO. 4030 / 2005

PETITIONER:

Smt. Savita Dewangan,
W/o Shri A. C. Dewangan,
Aged about 42 years,
R/o Near Gas Godown,
Rohinipuram, Raipur
Chhattisgarh.

P.R. No. 4132/05
Presented by Shri J.K. Gupta
dated 17/8/05

VERSUS

RESPONDENTS:

1. State Bank of India,
Through the General Manager,
Main Branch, Hosangabad
Road, Bhopal, M.P.

2. The Branch Manager,
State Bank of India
Fafadih Branch,
Raipur (C.G.)

3. State of Chhattisgarh,
Through the Collector,
District Raipur,
Raipur, Chhattisgarh.

4. M/s Chandela Housing Pvt.
Limited, Represented by its
Director Smt. Sharda Singh,
R/o H. No. 70, Anand Nagar
Raipur, C.G.

Present Address
Chandela Builders,
L-1, Agrasen Nagar, Opposite
Deendayal Upadhayay
Nagar, Ring No.1, Raipur,
(C.G.)

5. Agroha Grih Nirman
Sahakari Samiti, Through its
President Santosh Agrawal,
S/o Late R.D.Agrawal, aged

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17.8.
CLERK to A. G. BILASPUR

17/8/05

about 42 years, Siddharth Chowk, Tikra Para, Raipur, District Raipur, C.G.

Present Address
Agroha Grih Nirman Sahakari Samiti, Raipur, Agrasen Nagar, Opposite Deendayal Upadhayay Nagar, Ring No.1, Raipur, (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUENCE OF WRIT IN THE NATURE OF MANDAMUS, PROHIBTION, CERTIORARI, AND ANY OTHER WRITS, DIRECTIONS OR ORDERS.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4080/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	5-9-2005 Mr. Satyendra Sahu, counsel for the petitioner. Mr. Sandeep Dubey, Govt. Advocate for the State/respondent No.3. Heard both the counsel on admission. The petitioner has preferred this writ petition under Article 226/ 227 of the Constitution of India, with prayer to quash all the orders passed by respondent No.2 pertaining to recovery proceedings against house loan of the petitioner; to direct the respondent Bank to start installment of the house loan payment after giving possession of furnished house to the petitioner without imposing interest on loan amount for the period of construction; to direct respondent No.3 to make an inquiry for all the conspiracy of respondents No.2, 4 & 5 by an independent agency; to direct respondent No.3 to take the semi constructed house on plot No.I/8 of the petitioner in its possession and further direct to recover the required amount incurred in favour of the petitioner for remaining construction of the house from the assets of respondents No.4 & 5 and to lodge criminal case against all the responsible persons; and to direct respondent No.3 to make an arrangement for giving possession of the fully constructed house to the petitioner. The case of the petitioner as appears from reading of this writ petition is that respondent No.5 Agroha Grih Nirman Sahakari Samiti has authorized respondent No.4 to advertise the plots of Agroha Nagar and	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 4030/ ..... **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

further to get order of construction of the houses. In pursuance of the promises of respondent No.4 Chandela Builders, the present petitioner purchased plot No.I/8 of Sector-1, area 1500 sq. ft., which is a part of the land bearing Khasra No.379/13.20 Patwari Halka No.104 being a member having Membership No.913 of the Agroha Griha Nirman Sahakari Samiti, Raipur. Most of the buildings of the Agroha Society are being constructed by M/s. Chandela Housing Pvt. Ltd., as per the instructions and approval of the Agroha Grih Nirman Sahakari Samiti, Raipur. Thereafter, possession of plot No.I/8 was given to the petitioner after executing the sale deed. Respondent No.4 has taken all the approval from respondent No.5 and started construction on the said plot. Respondent No.4 furnished an agreement regarding construction of the house on 22-11-2002, in which it has been promised that respondent No.4 shall deliver fully furnished house within 18 months from the date of executing agreement and total cost of the house was estimated at Rs.8 lakhs, which has already been taken by respondent No.4.

Having heard learned counsel for the parties, I have perused the petition. The whole petition relates to disputed facts regarding agreements entered into between the petitioner and respondents No.4 & 5, as also the loan amount sanctioned by respondent No.1 Bank in favour of the petitioner and to be paid to respondent No.4 regarding construction of the house.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.4030/ **सन् 2005**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Learned counsel for the petitioner argued that the house in question could not be constructed in time on account of negligence of respondent No.1, and now respondent No.1 wants to realize the loan amount by auctioning the house in question, if that is allowed, then the petitioner will suffer irreparable loss.

As has been mentioned above, the whole petition is full of disputed facts, which cannot be decided in writ jurisdiction. Appropriate remedy for the petitioner is to approach the civil Court, if advised so. Any petition involving disputed facts cannot be entertained under Article 226 of the Constitution of India by invoking extra ordinary jurisdiction.

Therefore, this writ petition is dismissed, at the admission stage itself. However, the petitioner is at liberty to make representation before the Bank authorities, and it is for the Bank to consider the said representation and take decision, in accordance with law.

Consequently, M.(W.)P.No.3325/2005 and I.A.No.7463/2005 stand disposed of.

Sd/-
L.C. Bhadoo
Judge

SD/FS/2005 - 20,000